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7

8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA

10 JAMES M. MANSAPIT, on behalf of
himself, all others similarly situated,

11 Plaintiff,

12 v.
13

14 DELUXE CORPORATION, a Minnesota
corporation; DELUXE CHECK
PRINTERS, a Minnesota corporation; and
15 DOES 1 through 50, inclusive,

16 Defendants.
17

Case No. 5:19-cv-00790

**DEFENDANT'S NOTICE OF REMOVAL
OF ACTION TO FEDERAL COURT**

[28 U.S.C. §§ 1331, 1441 and 1446]

(Santa Clara County Superior Court
Case No. 19CV340921)

18 **TO THE CLERK OF THE UNITED STATES DISTRICT COURT FOR THE**
19 **NORTHERN DISTRICT OF CALIFORNIA, AND TO PLAINTIFF AND HIS ATTORNEYS**
20 **OF RECORD:**

21 PLEASE TAKE NOTICE that Defendant DELUXE CORPORATION, dba DELUXE
22 CHECK PRINTERS ("Defendant") hereby removes the above-entitled action brought by Plaintiff
23 JAMES M. MANSAPIT ("Plaintiff") (collectively, the "Parties") in the California Superior Court,
24 County of Santa Clara — with reservation of all defenses and rights — to the United States District
25 Court for the Northern District of California, San Jose Division pursuant to 28 U.S.C. §§ 1331, 1332,
26 1441(a) and (b), and 1446.

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INTRODUCTION

1. On January 14, 2019, Plaintiff, on behalf of himself and all others similarly situated, filed a Complaint against Defendant in the Superior Court of the State of California in and for the County of Santa Clara, entitled *James M. Mansapit, on behalf of himself, all others similarly situated, v. Deluxe Corporation, a Minnesota corporation; Deluxe Check Printers, a Minnesota corporation; and DOES 1 through 50, inclusive*, Case No. 19CV340921 (hereinafter the “State Court Action”).

REMOVAL IS TIMELY

2. This Notice of Removal is timely because Defendant is filing the Notice of Removal within 30 days from the date on which the Summons was deemed effectively served. *See Murphy Brothers, Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 354 (1999). The Complaint initiating the State Court Action was filed in the Superior Court on January 14, 2019. A true and correct copy of the Complaint, Summons, and all other process that have been served on Defendant to initiate the State Court Action is attached hereto as **Exhibit A**. Service was completed on January 16, 2019; as of the date of the filing of this document, no proof of service has been filed with Santa Clara County Superior Court according to the online docket. Thus, in accordance with 28 U.S.C. § 1446(b), Defendant is timely filing this Notice of Removal within 30 days of service.

REMOVAL JURISDICTION

A. The Court Has Original Jurisdiction Over Plaintiff’s FCRA Claims, Which Present Federal Questions

3. Plaintiff’s Complaint alleges violations of the federal Fair Credit Reporting Act, 15 U.S.C § 1681, *et seq.*, (“FCRA”). (Exhibit A, Compl., ¶¶ 25-58 (First and Second Causes of Action).) Plaintiff contends that an authorization form provided to Plaintiff to authorize a background report violated the disclosure requirements of the FCRA. (*Id.*, ¶¶ 23-45.) Plaintiff also alleges that Defendant failed to provide a proper summary of rights in violation of the FCRA. (*Id.*, ¶¶ 46-57.) Thus, the State Court Action is removable to the United States District Court of the Northern District of California because the Court has original jurisdiction over the federal questions presented by Plaintiff’s Complaint pursuant to 28 U.S.C. §§ 1331 and 1441(a).

4. This Court has supplemental jurisdiction under 28 U.S.C. § 1367(a) over any claims over which it does not have original federal question jurisdiction because they form part of the same case or controversy as those claims over which the Court has original jurisdiction. Separate claims “form part of the same case or controversy” when they involve “a common nucleus of operative facts” such that a plaintiff “would ordinarily be expected to try them all in a single judicial proceeding.” *United Mine Workers v. Gibbs*, 383 U.S. 715, 725 (1966). Here, Plaintiff’s non-FCRA claims arise from the same alleged acquisition and use of various reports as Plaintiff’s FCRA claims, and thus all of Plaintiff’s claims arise out of a common nucleus of operative facts. (See, e.g., Exhibit A, Compl. ¶¶ 22-24.) Plaintiff alleges that Defendant’s disclosure and authorization form that supposedly violates the FCRA also violates the California Investigative Consumer Reporting Agencies Act (“ICRAA”) and the California Consumer Credit Reporting Agencies Act (“CCRAA”). (*Id.*, ¶¶ 59-87.) Plaintiff further alleges that the claimed violations of the FCRA, ICRAA and the CCRAA are “unlawful business practices” that violate California Business & Professions Code section 17200 *et seq.* (*Id.*, ¶¶ 88-102.)

5. The Court consequently has supplemental jurisdiction over all other claims for relief under California law. 28 U.S.C. § 1367(a).

VENUE IS PROPER

19. The district and division embracing the place where the State Court Action is pending is the United States District Court for the Northern District of California, San Jose Division. See 28 U.S.C. §§ 84(a) and 1441(a).

EXHIBITS

20. Pursuant to 28 U.S.C. § 1446(a), the following are attached as Exhibits hereto: A copy of the Complaint, Summons, and all other process that have been served on Defendant to initiate the State Court Action is attached hereto as **Exhibit A**. A copy of Defendant’s electronically-submitted Answer to the Complaint in the State Court Action is attached hereto as **Exhibit B**. A copy of Defendant’s electronically-submitted Notice of Appearance is attached hereto as **Exhibit C**. A copy of Defendant’s electronically-submitted Motion for Peremptory Disqualification, Declaration of Rod M. Fliegel in Support of Motion for Peremptory

1 Disqualification and proposed Order is attached hereto as **Exhibit D**. A copy of the Proof of Service
 2 via U.S. Mail and the Proof of Electronic Service of Exhibits B through D is attached hereto as
 3 **Exhibit E**. A copy of the state court's January 22, 2019 Order Deeming Case Complex and Staying
 4 Discovery is attached hereto as **Exhibit F**.

5 NOTICE TO PLAINTIFF AND STATE COURT

6 21. Promptly after the filing of this Notice of Removal in the United States
 7 District Court for the Northern District of California, written notice of such filing will be given by
 8 the undersigned to Plaintiff's counsel of record, and a copy of the Notice of Removal, including
 9 exhibits, will be filed with the Clerk of the Court for the Superior Court of the County of Santa
 10 Clara, California as required by 28 U.S.C. § 1446(d).

11 22. Counsel for Defendant has signed this Notice of Removal in compliance with
 12 the requirements of 28 U.S.C. § 1446(a) and Rule 11 of the Federal Rules of Civil Procedure.

13 WHEREFORE, based on the foregoing, Defendant gives notice that it has removed to
 14 this Court the State Court Action now pending in the Superior Court of California, County of Santa
 15 Clara, to the United States District Court for the Northern District of California, pursuant to
 16 28 U.S.C. §§ 1331, 1441(a), and 1446.

17 Dated: February 13, 2019

18
 19 /s/ Rod M. Fliegel

ROD M. FLIEGEL

ALISON S. HIGHTOWER

EMILY MERTES

LITTLER MENDELSON, P.C.

Attorneys for Defendant

DELUXE CORPORATION,

dba DELUXE CHECK PRINTERS

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